

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRICK S HOUSTON,

Case No. 2:20-cv-01453-JAD-DJA

Plaintiff

v.

OFFENDERS MANAGEMENT DIVISION,
 et. al.,

**Order Dismissing
 and Closing Case**

Defendants

Plaintiff Brick S Houston brought this civil-rights lawsuit to redress constitutional violations he claims in his complaint that he suffered while in the custody of the Nevada Department of Corrections.¹ On June 18, 2021, I issued an order denying Houston's application to proceed *in forma pauperis* because he had "three strikes" under 28 U.S.C. § 1915(g) and his complaint did not plausibly allege that he was in imminent danger of serious physical injury when he filed his complaint.² I informed Houston that, if he did not pay the filing fee by July 19, 2021, I would dismiss the action without prejudice.³ That deadline has expired, and Houston has not paid the fee or otherwise responded to my order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.⁴ A court may dismiss an action based on a party's failure to prosecute an action, failure to obey a

¹ ECF No. 1-1 at 1.

² ECF No. 10.

³ *Id.*

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 court order, or failure to comply with local rules.⁵ In determining whether to dismiss an action
 2 on one of these grounds, the court must consider: (1) the public’s interest in expeditious
 3 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
 4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 5 availability of less drastic alternatives.⁶

6 The first two factors, the public’s interest in expeditiously resolving this litigation and the
 7 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
 8 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 10 ordered by the court or prosecuting an action.⁷ A court’s warning to a party that its failure to
 11 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of
 12 alternatives” requirement,⁸ and that warning was given here.⁹ The fourth factor—the public
 13 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
 14 favoring dismissal.

17 ⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
 18 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
 19 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
 20 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
 21 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

21 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
 22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁹ ECF No. 10.

1 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
2 based on the plaintiff's failure to pay the filing fee as ordered. The Clerk of Court is directed to
3 **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**. **No other documents may be**
4 **filed in this now-closed case.**

5 Dated: August 14, 2021

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8 U.S. District Judge Jennifer A. Dorsey
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